

IN THE COURT OF COMMON PLEAS
MONTGOMERY COUNTY, OHIO

STATE OF OHIO, ex rel.)	
MICHAEL DEWINE)	CASE NO.
Attorney General of Ohio)	
30 East Broad Street, 14th Floor)	JUDGE
Columbus, Ohio 43215)	
)	
Plaintiff,)	<u>COMPLAINT AND REQUEST</u>
)	<u>FOR INJUNCTIVE AND</u>
v.)	<u>DECLARATORY RELIEF,</u>
)	<u>CONSUMER RESTITUTION,</u>
POSUCCESS, LLC)	<u>AND CIVIL PENALTIES</u>
5021 Rockland Road)	
Dayton, Ohio 45406)	
)	
and)	
)	
PRINCESA BROWN)	
5021 Rockland Road)	
Dayton, Ohio 45406)	
)	
Defendants.)	

JURISDICTION

1. Plaintiff, State of Ohio, by and through the Attorney General of Ohio, Michael DeWine, having reasonable cause to believe that violations of Ohio’s consumer laws have occurred, brings this action in the public interest and on behalf of the State of Ohio under the authority vested in him by R.C. 1345.07.
2. The actions of Defendants, as described below, have occurred in counties throughout Ohio, including Montgomery County and, as set forth below, are in violation of the Ohio Consumer Sales Practices Act (“CSPA”), R.C. 1345.01 et seq. and its Substantive Rules, OAC 109:4-3-01 et seq.

3. Jurisdiction over the subject matter of this action lies with this Court pursuant to R.C. 1345.04 of the CSPA.
4. This Court has venue to hear this case pursuant to Ohio Civ. R. 3 (B)(2) in that Montgomery County is the location in which Defendant POSuccess, LLC has its principal place of business and Ohio Civ. R. 3 (B)(3) in that Montgomery County, Ohio is a county in which Defendants conducted activity that gave rise to the claim for relief.

DEFENDANTS

5. Defendant POSuccess LLC (“P.O.S.”) is an Ohio limited liability company with its principal place of business located at 5021 Rockland Drive, Dayton, Ohio 45406.
6. Defendant Princessa Brown (“Brown”) is a natural person who, upon information and belief, resides at 5021 Rockland Drive, Dayton, Ohio 45406.
7. Defendant Brown, as the owner of P.O.S., dominated, controlled, and directed the business activities and sales conduct of P.O.S., causing, personally participating in, or ratifying the acts and practices of P.O.S., as described in this Complaint.
8. At all times relevant to this action, Defendants have been engaged in the business of advertising, soliciting, offering for sale, and/or selling goods to consumers.
9. Defendants are “suppliers” as that term is defined in R.C. 1345.01(C), as Defendants were, at all times relevant herein, engaged in the business of effecting consumer transactions by soliciting sales door to door to individuals for purposes that were primarily personal, family, or household within the meaning specified in R.C. 1345.01(A) and (D).

STATEMENT OF FACTS

10. Defendants solicited consumers at their residences to purchase magazine subscriptions.
11. Defendants' representatives and/or salespersons traveled door to door to consumers' residences encouraging consumers to sign up and order different magazine subscriptions.
12. When consumers agreed to order magazine subscriptions, they were given a copy of an order form, which included language that stated, "This Subscription processed through P.O.S. LLC."
13. The order form also included the following language, "You the buyer, may cancel this transaction at any time prior to midnight of the third business day after the date of this transaction. See the attached notice of cancellation form for an explanation of this right." However, a notice of cancellation form was not attached to the order form provided to consumers.
14. In most, if not all, instances, consumers made payments for the magazine subscriptions by check.
15. Consumers wrote their checks out to P.O.S. and the funds were deposited into P.O.S.'s banking account.
16. In many instances, consumers never received any of the ordered and paid for magazines.
17. In many instances, consumers tried to contact Defendants to find out when they should expect to receive their magazines or to request refunds, but Defendants failed to respond to consumers' messages.
18. All facts alleged above have routinely occurred in the last two years prior to this lawsuit.

PLAINTIFF'S FIRST CAUSE OF ACTION:
VIOLATION OF THE CONSUMER SALES PRACTICES ACT

COUNT I
FAILURE TO DELIVER VIOLATION

19. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in Paragraphs One through Eighteen (1-18) of this Complaint.
20. Defendants committed unfair or deceptive acts or practices in violation of R.C. 1345.02 of the CSPA and the Failure to Deliver Rule, OAC 109:4-3-09(A)(2), by accepting money from consumers for goods and permitting eight weeks to elapse without delivering the promised goods or making a full refund.

SECOND CAUSE OF ACTION
VIOLATION OF THE HOME SOLICITATION SALES ACT

COUNT II
FAILURE TO PROVIDE PROPER NOTICE OF
THREE DAY RIGHT OF RESCISSION

21. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Eighteen (1-18) of this Complaint.
22. Defendants violated the Home Solicitation Sales Act, R.C. 1345.23 and R.C. 1345.02(A), by failing to give proper notice to consumers of their right to cancel their contract by a specific date.
23. The act or practice described above has been previously determined by Ohio courts to violate the Consumer Sales Practices Act, R.C. 1345.01 et seq. Defendants committed said violations after such decisions were available for public inspection.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court grant the following relief:

- A. ISSUE a permanent injunction enjoining Defendants Princesa Brown and POSuccess, LLC doing business under those or any other names, their agents, representatives, salesmen, employees, successors, or assigns, and all persons acting in concert and participation with them, directly or indirectly, from committing any unfair, deceptive, or unconscionable act or practice that violates the CSPA, R.C. 1345.01 et seq., and its Substantive Rules, OAC 109:4-3-01 et seq., including, but not limited to, violations of the specific code sections and rules set forth herein.
- B. DECLARE that each act or practice complained of herein violates the CSPA and its Substantive Rules in the manner set forth in this Complaint.
- C. ASSESS, FINE, AND IMPOSE upon Defendants a civil penalty of Twenty-Five Thousand Dollars (\$25,000.00) for each separate and appropriate violation described herein, pursuant to R.C. 1345.07(D).
- D. ORDER Defendants to pay all actual damages, including non-economic damages, to all consumers injured by the conduct of the Defendants as set forth in this Complaint.
- E. ISSUE an Injunction prohibiting Defendants from engaging in business as a supplier in any consumer transaction in the State of Ohio until such time as they have satisfied all monetary obligations ordered by this Court, and any other Court in Ohio, related to the conduct set forth herein.
- F. GRANT the Ohio Attorney General his costs in bringing this action.
- G. ORDER Defendants to pay all court costs.
- H. GRANT such other relief as the Court deems to be just, equitable, and appropriate.

Respectfully submitted,

MICHAEL DEWINE
Ohio Attorney General

/s/Brittany M. Steele

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